

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:21-cv-123-MR-WCM**

**ALBERT ROBINSON**

**Plaintiff**

**v.**

**DAVID KEITH OAKS, Esq;  
DAVID K. OAKS, P.A.;  
SECTION 23 PROPERTY OWNER'S  
ASSOCIATION, INC.;  
SECTION 23, PROPERTY OWNER'S  
ASSOCIATION, INC.;  
JOHN EDWARD SPAINHOUR;  
MCANGUS, GOUDELOCK & COURIE,  
PLLC;  
DR. D.V. RAO;  
FIVE OAKS INVESTMENTS, INC.; and  
THE DAVID K. OAKS PERSONAL  
TRUST,**

**Defendants.**

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**ORDER**

This matter is before the Court following the filing of Motions to Dismiss by certain Defendants (Docs. 34 & 37), as well as Plaintiff's Motion to Compel Opposing Counsel to Engage in a Rule 26(f) Meeting and Adhere to F.R.C.P. 26 (Doc. 36).

## **I. Motions to Dismiss**

The Court **ADVISES** Plaintiff Albert Robinson, who appears *pro se* in this matter, that on July 6, 2021, Defendants David K. Oaks, P.A. and Five Oaks Investments, Inc. filed a Motion to Dismiss which asks the Court to dismiss Plaintiff's First Amended Complaint "for Lack of Personal Jurisdiction, Improper Venue or alternatively to transfer venue pursuant to Federal Rules of Civil Procedure 12(b)(2) and (3)."

The Court **FURTHER ADVISES** Plaintiff that on July 6, 2021, "Defendant Section 23 Property Owners Association, Inc., a/k/a Section 23, Property Owners Association, Inc." filed a Motion to Dismiss which asks the Court to dismiss Plaintiff's First Amended Complaint "pursuant to Fed. R. 12(b)(6) on the grounds that there already has been an adjudication on the merits between the parties and that res judicata bars this action and Plaintiff has failed to state a claim."

Plaintiff is strongly encouraged to review both of these Motions to Dismiss and the supporting briefs carefully. Plaintiff is also strongly encouraged to review the Local Rules of this district.

Plaintiff is **FURTHER ADVISED** that the current deadline for Plaintiff to respond to both Motions to Dismiss is **July 20, 2021** and that if he does not submit responses to the Motions to Dismiss by that date, or by such later date

if a request for an extension of his deadline is requested and allowed, the Court may proceed to consider the Motions to Dismiss without hearing from him.

## II. Motion to Compel

As to Plaintiff's Motion to Compel, Local Civil Rule 16.1(a) requires that parties confer and conduct an initial attorneys' conference as soon as practicable and in any event not later than fourteen days from joinder of the issues. Joinder of the issues occurs when the final answer to a complaint has been filed or the time for doing so has expired. Local Civil Rule 16.1(d).

In this case, Plaintiff filed a First Amended Complaint (Doc. 30) on June 23, 2021. All parties have not yet filed answers or other responses to that pleading and it does not appear that the deadline for all parties to do so has expired. Further, as noted above, some parties have filed motions to dismiss which are pending. Consequently, the issues have not joined and Plaintiff's Motion to Compel Opposing Counsel to Engage in a Rule 26(f) Meeting and Adhere to F.R.C.P. 26 (Doc. 36) will be **DENIED WITHOUT PREJUDICE AS PREMATURE.**

It is so ordered.

Signed: July 8, 2021



W. Carleton Metcalf  
United States Magistrate Judge

